

REMARKS

Claims 1-15, 21, 24-27, 34-40, 53-57 and 65-73 are presently pending, and claims 1-15, 21, 24-27, 39, 40 and 58-60 have been amended. More specifically, claims 1, 39 and 58 have been amended in accordance with the agreement reached with Examiner Mutschler during a telephone interview on 1 October 2004. Claims 2-15 have been amended to correspond to the amendments of claim 1. Claims 21 and 24-27 originally presented allowable subject matter, and thus these claims have been rewritten in independent form or amended to depend from an allowable independent claim. The amendments to claims 21 and 24-27 were not made for the purposes of patentability and should not restrict the scope of these claims. Claims 16-20, 28-33, 41-52, 61-64 and 74 have been cancelled without prejudice.

The undersigned attorney wishes to thank Examiner Mutschler for holding a telephone interview on 1 October 2004. During this interview, agreement was reached that amended claim 1 patentably defines over the references applied in the Office Action dated 7 April 2004. Claims 39 and 58 have been amended to correspond with the amendments in claim 1. The applicants further request that this paper constitute the applicants' summary of the October 1 telephone interview.

In the Office Action dated 7 April 2004, the Examiner raised several issues regarding the specification, drawings, and claims in the present application. More specifically, the issues raised in the outstanding Office Action are as follows:

- (A) Figures 1B and 1C were requested to be identified as "Prior Art," and Figure 7 was subject to an objection;
- (B) The priority claim in paragraph [0001] was subject to an objection;
- (C) Claims 2-15, 17-22, 24-33, 40-44, 46-51 and 59-68 were rejected under 35 U.S.C. § 112, second paragraph;
- (D) Claims 1, 6, 10, 11, 16-19 and 23 were rejected under 35 U.S.C. § 102(e) over U.S. Patent No. 6,251,236 issued to Stevens ("Stevens"), and claim 74 was

rejected under 35 U.S.C. § 102(b) over U.S. Patent No. 5,522,975 issued to Andricacos et al. ("Andricacos");

(E) Claims 1, 6, 10-20, 23, 28-33, 39, 44-49, 52, 58 and 63-68 were rejected under 35 U.S.C. § 103 over either (a) the combination of Andricacos and Stevens or (b) the combination of U.S. Patent No. 6,228,231 issued to Uzoh ("Uzoh") and Stevens;

(F) Claim 9 was rejected under 35 U.S.C. § 103 over the combination of Andricacos, Stevens and U.S. Patent No. 6,080,289 issued to Palmatier et al. ("Palmatier"), and claim 9 was also rejected under 35 U.S.C. § 103 over the combination of Uzoh, Stevens and Palmatier;

(G) Claim 1 was rejected under 35 U.S.C. § 101 over claims 1-43 of co-pending U.S. Application No. 10/353,325; and

(H) Claims 2-5, 21, 22, 24-27, 40-43, 50, 51 and 59-62 were indicated as being allowable if rewritten in independent form in compliance with 35 U.S.C. § 112.

A. Response to Objections to the Drawings

The Examiner requested that Figures 1B and 1C be amended to include the legend "Prior Art." Applicants respectfully disagree that these figures constitute prior art to the claims in the present application. This application is a continuation-in-part of the application in which these figures first appeared. Prior art is defined solely by 35 U.S.C. § 102, and it is not clear that these figures are prior art to the pending claims. The Examiner notes that labeling the figures "prior art" does not necessarily indicate that these drawings can be used as prior art to reject the instant claims. The courts, however, have held that labeling figures as "prior art" is an admission that the figures constitute prior art whether or not the figures are in fact prior art. In the present case, Figures 1B and 1C, which were initially filed in U.S. Application No. 09/717,927 on 20 November 2000 (and issued in U.S. Patent No. 6,527,925 on 4 March 2003), do not appear to constitute prior art under 35 U.S.C. § 102. The applicants accordingly do not wish to concede that these figures are prior art and respectfully request that this requirement be withdrawn.

Figure 7 was subject to an objection on the grounds that reference number 430 should be changed to 430a. A proposed drawing correction shown in red ink is enclosed herein.

B. Response to the Objection to the Priority Claim

The priority claim has been corrected as set forth above to correctly identify the priority chain. Therefore, the applicants respectfully request withdrawal of this objection.

C. Response to Section 112 Rejections

Claims 2-15, 17-22, 24-33, 40-44, 46-51 and 59-68 were rejected under 35 U.S.C. § 112 as being indefinite. These claims have been amended to provide the proper antecedent basis for the various elements recited in these claims. Therefore, the applicants respectfully request withdrawal of the Section 112 rejections.

D. Response to Section 102 Rejections

Claims 1, 6, 10, 11, 16-19 and 23 were rejected under 35 U.S.C. § 102(e) over Stevens. During the telephone interview on 1 October 2004, an agreement was reached that amended claim 1 is patentable over the applied references. Claims 6, 10 and 11 are patentable as depending from independent claim 1, and also because of the additional features in these claims. Therefore, the applicants respectfully request withdrawal of this rejection of claims 1, 6, 10 and 11.

Claims 16-23 have been cancelled from the application without prejudice. Therefore, the rejection of these claims is now moot.

Claim 74 was rejected under 35 U.S.C. § 102(b) over Andricacos. Claim 74 has been cancelled, and thus this rejection is also moot.

E. Response to Section 103 Rejections

Claims 1, 6, 10-20, 23, 29-33, 39, 44-49, 52, 58 and 63-68 were rejected under 35 U.S.C. § 103 over either (a) the combination of Andricacos and Stevens, or (b) the combination of Uzoh and Stevens. Claim 1 has been amended in accordance with the

agreement reached in the October 1st telephone interview, and thus this claim is patentable over either (a) the combination of Andricacos and Stevens or (b) the combination of Uzoh and Stevens. Claims 6 and 10-15 depend from claim 1, and thus these claims are patentable as depending from a patentable independent claim and also because of the additional features recited in these claims.

Claims 39 and 58 have been amended in accordance with the agreement reached in the October 1st telephone interview such that these claims are also patentable over the combinations Andricacos, Stevens and/or Uzoh. Claims 65-68 distinguish over the cited references as depending from independent claim 58 and also because of the additional features of these claims. Therefore, claims 39, 58 and 65-68 are patentable over the cited combinations of patents.

Claims 16-20, 23, 28-33, 52, 61, and 63 have been cancelled without prejudice. Therefore, the Section 103 rejections of these claims are now moot.

F. Response to Section 103 Rejection, Claim 9

Claim 9 was rejected under 35 U.S.C. § 103 over either (a) the combination of Andricacos, Stevens and Palmatier, or (b) the combination of Uzoh, Stevens and Palmatier. Claim 9 depends from independent claim 1, which was agreed to be patentable over the cited references. Therefore, the rejections of claim 9 should be withdrawn.

G. Response to Double Patenting Rejections

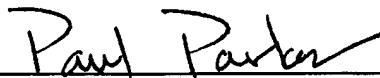
Claim 1 was provisionally rejected under 35 U.S.C. § 101 as claiming the same invention as set forth in claims 1-43 of U.S. Application No. 10/353,325. The claims in the present application and the claims in U.S. Application No. 10/353,325 have been amended such that these applications do not cover identical subject matter. Therefore, this rejection should be withdrawn.

In view of the foregoing, the pending claims comply with 35 U.S.C. § 112 and are patentable over the applied art. The applicants accordingly request reconsideration of the application and a timely mailing of a Notice of Allowance. If the Examiner has any

questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to call the undersigned at (206) 359-3258.

Respectfully submitted,
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Amendments to the Drawings:

Enclosed herewith is an amended version of Figure 7 in which reference number "430" has been changed to read --430a--. In accordance with the Office's revised format, this drawing has been labeled "Replacement Sheet."